IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 818 of 1997

Between:

B.Pentaiah, S/o. Ramaiah, Working as Foreman, Area workshop,

Rg.I Area, Singareni Colleries Co.Ltd., Godavarikhani,

Karimnagar District.

..... PETITIONER

AND

1 The Singareni Colleries Co.Ltd., rep.by its -C.M.D.,

Kothagudem, Khammam District.

2 The General Manager , S.C.Co.Ltd., Rg. I Area,

Godavarikhani- 505209, Dist. Karimnagar.

3 Sr. Divisional Engineer, Area Wokshop, S.C.Co.Ltd.,

Rg.I Area, Godavarikhani-505209, Dist. Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a Writ or order or direction especially on the nature of Mandamus: (i) declaring the action of the respondents in trying to retire the petitioner from Service W.E.F. 28.2.1997 as illegal and arbitrary; (ii) direct the respondents to continue the petitioner in service up to 31.3.98.

Counsel for the Petitioner:MR.K.VASUDEVA REDDY

Counsel for the Respondents: MR.K.SRINIVASAMURTHY

The Court made the following :

O R D E R:

The Writ petition is filed by the petitioner praying for issue of Writ of Mandamus declaring the action of the respondents in trying to retire the petitioner from services with effect from 28-02-1997, as illegal, arbitrary and with a consequential direction that the petitioner is entitled to continue in services up to 31-03-1998.

2. According to the petitioner, he was appointed in the respondent company on 08-01-1956 and was posted to the Hospital, Bellampally. Thereafter, he was transferred to the Area-Workshop, Bellampally on 28-05-1996 and further he was transferred in September, 1963 to Godavarikhani. According to the petitioner, the date of birth of each employee is being entered in the statutory register, called 'B' Register, at the time of appointment and all the workmen are entitled to be continued in service up to the age of 60 years. It is also stated that whenever a workman attains the age of superannuation in the middle of the month, he would be allowed to retire only from the end of the month in which he attains the age of superannuation. According to the petitioner, his date of birth at the time of appointment was correctly entered as 22-03-1938 in the 'B' Register maintained by the hospital, Bellampalli. As per the said date of birth entered in the service register, the petitioner is entitled to be in service till the

end of March 1998. But the petitioner while he was in service appeared to the matriculation examination in Osmania University in the month of December, 1974 and obtained the certificate issued by the Osmania University, where the date of birth of the petitioner was wrongly mentioned as 22-03-1935 instead of 22-03-1938. Basing on the said certificate, the date of birth of the petitioner was changed in the service register as 22-03-1935 from 22-03-1938. Thereafter, the petitioner approached the university authorities for the correction of the date of birth as was entered in the SSC certificate and got it corrected. Thereafter, the petitioner made a representation dated 31-01-1994 enclosing the corrected certificate issued by the Osmania University. The respondent authorities, however, did not act upon the corrected certificate issued by the Osmania University, but instead referred the petitioner to the Medical Board. The medical board determined that the petitioner was of the age of 58 as on 14-02-1995. Therefore the petitioner was continued up to 28-02-1997 instead of 31-03-1998 and the respondents have proposed to retire the petitioner by the end of February, 1997. Therefore, the petitioner has come up with the present writ petition and filed the same in the month of January, 1997 and sought appropriate orders.

3. This Court, however, was not satisfied with the contention of the petitioner and had not granted any interim orders directing the respondents to allow the petitioner to continue in service till1998.

4. At the time of hearing, the learned Counsel for the petitioner contended that as per the school certificate, the correct date of birth is 22-03-1938, and therefore, the petitioner is entitled to continue up to March 1998. As the petitioner was deprived of thirteen months of service, he is entitled for appropriate relief, for the denial of continuance in service for the above period.

5. A counter has been filed on behalf of the respondent disputing and denying the contentions of the petitioner. It is stated that the petitioner's date of birth was entered in the 'B' Register maintained by the Area Workshop, Ramagundam as 22-03-1935. Further, when the petitioner made a representation, he was referred to the Medical Board and as per the decision of the Medical Board, the petitioner was allowed up to February 1997. Therefore, there is no merit warranting interference. On behalf of the respondents, it is

also stated that the petitioner produced the 7th class certificate. Basing on it, the date of birth was entered in the service register. It is only in the year 1994, the petitioner has come up with the SSC certificate representing that his date of birth is 22-03-1938 and not 22-03-1935 and sought correction when he was proposed to retire in the year 1995. As the petitioner was continued in service as per the decision of the Medical Board till he attain the age of 60 years, the petitioner is not entitled to any relief in the writ petition.

6. Heard both sides and considered the material on record.

7. Though the petitioner contended that his date of birth as entered in the 'B' register was 22-03-1938, the same was disputed and denied by the respondents. According to the respondents, the date that was entered in the 'B' Register was 22-03-1935. In fact the date of birth of the petitioner was entered in the register of the respondent basing on the 7th class certificate produced by the petitioner, which was not even placed before this Court showing the date of birth as registered in the 7th class certificate. The grievance of the petitioner is that when the petitioner appeared for the matriculation examination in the Osmania University, in the certificate issued by the Osmania University, the year in the date of birth was wrongly mentioned as 1935 instead of 1938, which was later corrected and when the petitioner was proposed to retire in the year 1995, the petitioner made a representation in the year 1994 seeking correction of the year of his date of birth. The above contentions of the petitioner are denied by the respondents and in fact finally, the age was got determined by making a reference to the Medical Board and the Medical Board, which examined the petitioner in February 1995, determined the age of the petitioner as on that date at 58 years. Therefore, the petitioner was allowed to continue till he attained the age of 60 years, i.e. till, 1997. In that view of the matter, there is absolutely no merit warranting any indulgence from this Court.

8. In the above circumstances, the Writ Petition is dismissed as devoid of merit. No costs.

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S. Ananda Reddy, J.

Dt:28-07-2004.

To

1 The C.M.D.,Singareni Colleries Co.Ltd.,Kothagudem,

Khammam District.

2 The General Manager , S.C.Co.Ltd., Rg. I Area,

Godavarikhani- 505209, Dist. Karimnagar.

3 Sr. Divisional Engineer, Area Wokshop, S.C.Co.Ltd.,

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